

**RENTAL HOUSING COMMISSION
ADVANCE NOTICE OF RULEMAKING AND
REQUEST FOR PROPOSALS**

Pursuant to the authority set forth in § 202(a)(1) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3502.02(a)(1) (2012 Repl.)) (“Rental Housing Act”), the Rental Housing Commission (“Commission”) has responsibility to issue, amend, and rescind rules in Chapter 43 (Evictions, Retaliation, and Tenant Rights) of Title 14 (Housing) of the District of Columbia Municipal Regulations (“DCMR”). On March 28, 2022, Mayor Muriel Bowser signed Act 24-357, the Eviction Record Sealing Authority and Fairness in Renting Amendment Act of 2022 (“Eviction Amendments Act”), which has a projected effective date of May 19, 2022, upon the completion of Congressional review.

The Eviction Amendments Act amends, among other things, Title V (Evictions; Retaliatory Action; and Other Matter) of the Rental Housing Act. The Commission recognizes that these amendments supersede, and will require revisions to, several rules currently found in 14 DCMR chapter 43. Accordingly, the Commission seeks public input regarding necessary and advisable changes to its rules arising from the Eviction Amendments Act.

Specifically, 14 DCMR § 4300.2(a) currently provides that nothing in §§ 4300, 4301, or 4302 shall apply to the eviction of a tenant for the nonpayment of rent. The amendments made to § 501(a) of the Rental Housing Act (D.C. Official Code § 42-3505.01(a)) and enactment of new § 501(a-1) of the Rental Housing Act (D.C. Official Code § 42-3505.01(a-1)) change the prior law by bringing nonpayment cases within the Rental Housing Act’s jurisdiction and requiring several specific actions by housing providers and contents for notices regarding nonpayment.

The Commission particularly seeks public input on the following issues:

- Whether and to what extent the substantive and procedural requirements of a suit for possession (amended D.C. Official Code §§ 16-1501 and 42-3505.01(q)) should be incorporated into the rules for a housing provider to issue a notice demanding a tenant to pay back rent or vacate, specifically: the \$600 threshold for nonpayment cases, the requirement for a current business license, and the requirement for a valid registration/claim of exemption under the Rental Housing Act;
- Whether the exemption from the licensing and registration requirement for “subtenants” (amended D.C. Official Code §§ 16-1501(c)(3) and 42-3505.01(q)) can or should be clarified as applying only in cases where the sublessor is a natural person not otherwise affiliated with the property owner, as distinguished from cases where a housing provider may be operating with a long-term ground lease rather than an ownership interest in the underlying real property;
- The applicability of the Language Access Act of 2004 (D.C. Official Code § 2-1933) pursuant to amended D.C. Official Code § 42-3505.01(a)(3), specifically: what languages a housing provider may be required to provide notice in, and how housing providers in the District can be informed that a particular language is covered by the “population served” threshold of the Language Access Act; and

- Whether and to what extent the requirements for service of a summons by posting (amended D.C. Official Code § 16-1502), should be incorporated into the rules for service of a notice to vacate under amended D.C. Official Code § 42-3505.01(a)(2), given that § 904(a) of the Rental Housing Act (D.C. Official Code § 42-3509.04(a)) does not otherwise contemplate service of any documents by posting.

The Commission also notes that several aspects of the Eviction Amendments Act appear to be outside of its jurisdiction and not proper subjects of a rulemaking by the Commission:

- New section 509 of the Rental Housing Act (D.C. Official Code § 42-3505.10) applies to the Superior Court of the District of Columbia (“Superior Court”) and requires that separate branch of the District government to take certain actions and follow certain procedures regarding sealing of its own records. The complaint authorized by that section is also specifically established as a civil action to be brought in the Superior Court, not an administrative claim brought through a tenant petition.
- New § 510 of the Rental Housing Act (D.C. Official Code § 42-3505.10) creates a detailed set of requirements for housing providers to follow before or when accepting an application to rent from prospective tenants and establishes that complaints under that section may be brought before the Office of Human Rights (“OHR”) or, alternatively, in Superior Court. New D.C. Official Code § 42-3505.10(h)(4) specifically delegates rulemaking authority for the complaint process to the Mayor (presumably to be delegated to the director of OHR), rather than the Commission. Moreover, there does not appear to be any need for the Commission to issue substantive rules under new D.C. Official Code § 42-3505.10(a)-(g), (i), or (j).

The Commission requests that any proposals or comments regarding this notice be submitted by June 30, 2022. Because the Eviction Amendments Act will be in effect by that date, the Commission may issue a notice of emergency and proposed rulemaking in order to implement any clarifications as soon as possible. The decision to act on an emergency basis will depend on the nature of public input received and the complexity of the rules to be issued.

All persons desiring to propose rules or comment on the issues described above should submit comments in writing to:

Daniel Mayer, General Counsel
Rental Housing Commission
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Or, via email to: daniel.mayer@dc.gov. Persons with questions concerning this notice should call (202) 442-8949.